

**STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD**

In the Matter of the Application by
Faribault Energy Park, LLC for a Site
Permit for a Nominal 250 Megawatt
Dual Fuel Combined Cycle Combustion
Turbine Generating Plant in Rice
County.

**FINDINGS OF FACT,
CONCLUSIONS, AND ORDER
AUTHORIZING TRANSFER OF
PERMITS TO MINNESOTA
MUNICIPAL POWER AGENCY**

**MEQB DOCKET NO. 02-48-PPS-FEP
MEQB DOCKET NO. 04-79-TR-FEP
MEQB DOCKET NO. 04-80-PRP-FEP**

The above-captioned matter came before the Minnesota Environmental Quality Board at a special meeting held on June 17, 2004, pursuant to a request by Faribault Energy Park, LLC (FEP), for authorization to transfer its Site Permit, its Route Permit, and its Pipeline Routing Permit related to the 250-megawatt Faribault Generating Plant in the City of Faribault, Rice County Minnesota, to the Minnesota Municipal Power Agency.

STATEMENT OF ISSUE

Should Faribault Energy Park, LLC (FEP) be authorized to transfer its Site Permit, its Route Permit, and its Pipeline Routing Permit issued on May 20, 2004, for a 250 megawatt generating plant, two 115 kilovolt transmission lines, and a ten inch natural gas pipeline in the City of Faribault, Minnesota, to the Minnesota Municipal Power Agency.

Based upon all of the proceedings herein, the Minnesota Environmental Quality Board makes the following:

FINDINGS OF FACT

1. The Environmental Quality Board issued a Site Permit to Faribault Energy Park, LLC on May 20, 2004, which authorized the construction of a 250-megawatt dual fuel, combined cycle combustion turbine to be located in the City of Faribault, Rice County, Minnesota. EQB Docket No. 02-48-PPS-FEP.
2. The Environmental Quality Board issued a Route Permit to Faribault Energy Park, LLC on May 20, 2004, which authorized the construction of two 115 kilovolt transmission lines approximately 400 feet long to connect the new Faribault Generating Station to the transmission grid. EQB Docket No. 04-79-TR-FEP.

3. The Environmental Quality Board issued a Pipeline Routing Permit to Faribault Energy Park, LLC on May 20, 2004, which authorized construction of a ten inch natural gas pipeline approximately 1000 feet long to connect the Faribault Generating Plant to a nearby natural gas pipeline. EQB Docket No. 04-80-PRP-FEP.
4. On June 8, 2004, Faribault Energy Park, LLC, wrote to Chairman Schroeder and requested authorization to transfer the above three permits to the Minnesota Municipal Power Agency (MMPA). The reason for the request is to facilitate financing of the project. The president of Dahlen, Berg & Co. also signed the letter as the Agent for MMPA.
5. Faribault Energy Park, LLC, is a limited liability corporation wholly owned by the Minnesota Municipal Power Agency. On July 1, 2004, Faribault Energy Park, LLC, will transfer all of its assets, including the three permits issued by the EQB, to MMPA. The effect of a transfer is that MMPA will own Faribault Generating Station and any other assets belonging to Faribault Energy Park, LLC, directly rather than through a wholly owned subsidiary.
6. MMPA has eight Minnesota municipal utility members. The members are: the City of Anoka, the City of Arlington, the City of Brownton, the City of Chaska, the City of LeSueur, the City of North St. Paul, the City of Olivia, and the city of Winthrop.
7. Faribault Energy Park, LLC always intended to sell power at wholesale to MMPA member municipal utilities. The electricity generated at the Faribault Generating Station will be sold to the same customers the limited liability subsidiary would have sold to.
8. The EQB has promulgated a rule recognizing that a permittee may request that its permits be transferred. That rule is Minnesota Rules part 4400.3850. Subpart 2 of that rule provides that the EQB shall approve the request if the Board determines that the new permittee will comply with the conditions of the permit.
9. There is no reason to believe that MMPA will have any less capability to comply with the conditions of the permits than did its wholly owned subsidiary Faribault Energy Park, LLC. The signature of MMPA's agent on the June 8 letter is evidence of MMPA's commitment to comply with all applicable conditions of the permits.
10. Neither Faribault Energy Park, LLC, nor the Minnesota Municipal Power Agency has requested that any conditions of the existing permits be amended or deleted. No permit conditions are being changed by the transfer.
11. Minnesota Rules part 4400.3850, subp. 1 provides that when a request for a permit transfer is received by the Chair, the Chair must notify certain persons that

the request has been filed, and the notice must be mailed at least seven days in advance of the Board's consideration of the matter. In this case, the notice was provided to the requisite persons on Friday, June 11, 2004, only six days before the special Board meeting.

12. The Board finds that it is appropriate nonetheless to approve the request on only six days notice for several reasons. One, the permits are being transferred from a wholly owned subsidiary to the owner of the subsidiary. Two, no person objected to issuance of any of these permits in the first place, nor has any person objected to the transfer and none is expected. And three, the Public Utilities Commission has issued a certificate of need for the new power plant, and the first phase of construction is scheduled to begin this summer, with operation of the combustion turbine scheduled to commence in summer 2005. Any delay in transfer of ownership could result in a delay of the financing and a resulting delay in construction and operation.
13. If the Board does not act at this special meeting, the next opportunity for the Board to consider the request would be on July 15. For the reasons described in Finding No. 11, it makes no sense to wait one whole month to approve the transfer. Therefore, the Board will condition its granting of approval on the condition that if any person required to be given notice under Minn. Rules part 4400.3850 should object to the transfer by the end of business on June 21, 2004, the Board's action shall be delayed until it can be considered again at the next regular or special meeting.

Based on these Findings of Fact, the Environmental Quality Board makes the following:

CONCLUSIONS OF LAW

1. Any of the foregoing Findings more properly designated as Conclusions are hereby adopted as such.
2. The Environmental Quality Board has jurisdiction over the subject matter of this proceeding pursuant to Minn. Rules part 4400.3850.
3. Minnesota Municipal Power Agency has the capability to comply with the conditions of the permits and has represented its full intention to accept the permits with all conditions.
4. Providing only six days notice to persons designated in the EQB rule of the request by Faribault Energy Park, LLC, to transfer the permits has not prejudiced any person and conditioning the approval on allowing a full seven days to register objections is in full satisfaction of the rule and due process.

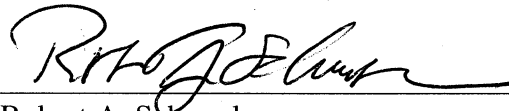
Based upon the foregoing Findings of Fact and Conclusions of Law, the Minnesota Environmental Quality Board makes the following:

ORDER

1. The Minnesota Environmental Quality Board hereby approves the transfer of Site Permit No. 02-48-PPS-FEP, Route Permit No. 04-79-TR-FEP, and Pipeline Routing Permit No. 04-80-PRP-FEP from Faribault Energy Park, LLC, to the Minnesota Municipal Power Agency, effective at the end of business June 21, 2004, providing no person required to be given notice of the request for the transfer has filed an objection with the EQB at that time. If any such person should file an objection, this matter shall be reconsidered by the EQB at the earliest possible date.
2. All conditions in these three permits shall remain in full force and effect.

Approved and adopted this 17th day of June, 2004

STATE OF MINNESOTA
ENVIRONMENTAL QUALITY BOARD



Robert A. Schroeder,
Chair